

HOUSE BILL 865
By Marrero

AN ACT to enact the "Emergency Care for Rape Victims
Act of 2005".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Emergency Care for Rape Victims Act of 2005."

SECTION 2. The general assembly finds that:

(1) Each year, over six hundred thousand (600,000) women are raped in the United States.

(2) After a woman is raped, she may face or anxiously fear the additional trauma of an unwanted pregnancy.

(3) Each year approximately twenty-five thousand (25,000) women in the United States become pregnant as a result of rape. An estimated twenty-two thousand (22,000) of these pregnancies, or eighty-eight percent (88%), could be prevented if rape victims had timely access to emergency contraception.

(4) Emergency contraception is a safe, responsible, and effective back-up method of birth control that prevents pregnancy after sexual intercourse.

(5) Medical research indicates that the sooner emergency contraception is administered, the better the chance of preventing unintended pregnancy.

(6) Emergency contraception does not cause abortion and does not work if a woman is already pregnant, according to the World Health Organization.

(7) Emergency contraception is an integral part of comprehensive and compassionate emergency care for rape victims.

(8) The American College of Obstetricians and Gynecologists (ACOG) and the American Public Health Association (APHA) agree that emergency contraception should be offered to all victims of rape if they are at risk of pregnancy.

(9) A nationwide study found that only twenty-one percent (21%) of all sexual assault victims eligible for emergency contraception actually received the treatment during a visit to a hospital emergency department.

(10) Most women do not know about emergency contraception: nearly three fourths (3/4) of women surveyed have not heard of emergency contraception pills, the most commonly used form of emergency contraception, and only two percent (2%) of women have ever used them. Therefore, women who have been raped are unlikely to ask for emergency contraception.

(11) It is essential for all hospitals that provide emergency medical treatment to offer emergency contraception as a treatment option to any women who seeks medical care as a result of an alleged rape.

SECTION 3. As used in this act, unless the context otherwise requires:

(1) "Emergency contraception" means any drug or device approved by the federal food and drug administration that prevents pregnancy after sexual intercourse.

(2) "Emergency care to rape victims" means medical examinations, procedures, or services provided at a hospital to a woman following an alleged rape.

(3) "Hospital" means a hospital as defined in Tennessee Code Annotated, Section 68-11-201.

(4) "Medically and factually accurate and objective" means verified or supported by the weight of research conducted in compliance with accepted scientific methods and published in peer-reviewed journals where applicable or comprising information that leading professional organizations and agencies with relevant expertise in the field, such

as the American College of Obstetricians and Gynecologists (ACOG), recognize as accurate and objective.

(5) "Rape" includes any of the sexual offenses defined in Tennessee Code Annotated §§ 39-13-502, 39-13-503, 39-13-506, and 39-13-522.

(6) "Rape victim" means a female who alleges or is alleged to have been raped and presents as a patient.

SECTION 4. It shall be the standard of care for hospitals that provide emergency care to rape victims to:

(1) Provide each rape victim with medically and factually accurate and objective written and oral information about emergency contraception, prepared pursuant to Section 6;

(2) Orally inform each rape victim of her option to be provided with emergency contraception at the hospital; and

(3) Provide the complete regime of emergency contraception immediately at the hospital to each rape victim who requests it.

SECTION 5. Each hospital shall ensure that each person who provides care to rape victims is provided with medically and factually accurate and objective information about emergency contraception.

SECTION 6.

(a) The department of health, or contracted designee, shall develop, prepare, and produce informational materials relating to emergency contraception for the prevention of pregnancy for distribution to and use in all emergency departments in the state, in quantities sufficient to comply with the requirements of this section. The commissioner, in collaboration with community rape programs and other relevant

stakeholders, may also approve informational materials from other sources for the purposes of this section.

(b) The informational materials must:

(1) Be medically and factually accurate and objective;

(2) Be clearly written and readily comprehensive in a culturally competent manner, as the department, in collaboration with community rape programs and other relevant stakeholders deem necessary to inform victims of rape; and

(3) Explain the nature of emergency contraception, including its use, safety, efficacy, and availability, and that it does not cause abortion.

SECTION 7. In addition to any remedies at common law, the department of health shall respond to complaints and shall periodically determine whether hospitals are complying with this act. The department may use all investigative tools available to it to verify compliance with this act. If the department determines that a hospital is not in compliance with this act, the department shall:

(1) Impose a civil penalty of five thousand dollars (\$5,000) per woman who is denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception;

(2) Impose a civil penalty of five thousand dollars (\$5,000) for failure to comply with Section 5. For every thirty (30) days that a hospital is not in compliance with Section 5, an additional civil penalty of five thousand dollars (\$5,000) shall be imposed; and

(3) After two (2) violations, suspend or revoke the license or deny the hospital's application for license.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the

act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect July 1, 2005, the public welfare requiring it.